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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,456	02/05/2007	Wilfried Erb	12944/003	9107
27879 7590 02/10/2009 INDIANAPOLIS OFFICE: 27879 BRINKS HOFER GILSON & LIONE ONE INDIANA SQUARE, SUITE 1600 INDIANAPOLIS, IN 46204-2033				
EXAMINER TORRES VELAZQUEZ, NORCA LIZ				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
02/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/554,456

**Applicant(s)**

ERB ET AL.

**Examiner**

Norca L. Torres-Velazquez

**Art Unit**

1794

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 120508
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. Claims 1-38 have been canceled.
2. Claims 39, 51 and 65 have been amended, no new matter was found.

***Response to Arguments***

3. Applicant's arguments, see amendment, filed December 05, 2008, with respect to the rejection(s) of claim(s) 39-72 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of CHENOWETH et al. '738 in view of YOKOO et al. (US 2003/0104191A1).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 39-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over CHENOWETH et al. (US 4,946,738) in view of YOKOO et al. (US 2003/0104191A1).**

CHENOWETH et al. discloses a nonwoven fibrous product that has good strength and insulating characteristics. (Abstract) The nonwoven fibrous product comprises a blend of glass fibers and synthetic fibers. The glass fibers comprise 42% by weight of the final product. The synthetic fibers may be selected from polyesters, nylons, rayons, acrylics, vinyls, aramids and similar materials. The reference teaches that the optimum portion of synthetic fibers is

approximately 38% by weight. The reference further teaches using about 4% by weight of the final product of bicomponent fibers. (Refer to Col. 3, lines 1-25; col. 4, lines 51-58; Col. 5, lines 21-22) The reference further teaches that if desired, a foraminous film or skin may be applied to one or both surfaces of the product. The density of the product may be in the range of from 1 to 50 pounds per cubic foot.  $[16-800 \text{ kg/m}^3]$  (Refer to Col. 3, lines 40-44) The length of the glass fibers and the synthetic fibers is approximately one quarter to one-half inch to four inches.  $[6-101 \text{ mm}]$  (col. 4, lines 62-66) The reference teaches that the glass fibers, the homogeneous synthetic fibers and the bi-component fibers are blended to produce a highly homogeneous mixture of the three fibers. The reference teaches that the blanket will have a uniform, initial thickness of between about 1 and 3 inches  $[25-75 \text{ mm}]$ , but that a thinner or thicker blanket may be produced if desired. (Col. 5, lines 60-67)

The Examiner equates the glass fibers to the claimed reinforcing fibers, the synthetic fibers to the claimed first fiber and the bicomponent fibers to the claimed binder.

However, CHENOWETH is silent to the basis weight of the nonwoven material.

YOKOO et al. relates to a long-fiber reinforced thermoplastic resin sheet. [0001] The material disclosed by the reference includes the use of glass reinforcing fibers [0016] with average length of from 10 to 150 mm [0023] and the sheet having a basis weight of from 30-500 gsm. [0008]

Since both references are directed to glass reinforced sheets, the purpose disclosed by YOKOO et al. would have been recognized in the pertinent art of CHENOWETH et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to produce the sheet of CHENOWETH with a basis weight within the

range taught by YOKOO et al. with the motivation of producing a material that is not too heavy that will not result in higher costs as disclosed by YOKOO et al. (Refer to [0038])

6. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over CHENOWETH et al. and YOKOO et al. as applied to claim 39 above, and further in view of HISCOCK (WO 87/04476).

With regards to claim 45, CHENOWETH et al. discloses the claimed invention except that it teaches polyester and nylon fibers instead of the thermoplastic materials claimed, HISCOCK shows these thermoplastic materials are equivalent structures known in the art. Therefore, because these thermoplastic materials were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute nylon or polyester fibers for polysulfides or polyphenylene sulfide, for example. (Refer to page 6, lines 10-19 that describes thermoplastic fusible polymeric materials).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Norca L. Torres-Velazquez/  
Primary Examiner, Art Unit 1794

February 8, 2009